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EXAMINER

TANG, KAREN C

ART UNIT	PAPER NUMBER
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2151

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/775,170

Applicant(s)

SVOBODA ET AL.

Examiner

Karen C. Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

- This action is responsive to the amendment and remarks file on 11/28/06.
- Claims 1-19, 21-41 are amended are for further examination.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19, 21-25 and 29-31, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaye (US 5,694,393) in view of Serenyi et al hereinafter Serenyi (US 7,007,062)

1. Referring to Claim 1, Kaye discloses in a networked communication system that does not require reliable networking connections and which includes a first communication node (N1) and a second communication node (N2 refer to Col 3, Lines 42-55), wherein the first and second communication nodes (each communication device node, refer to Col 1, Lines 45-65) employ wireless communication (refer to Col 4, Lines 40-45, where mobile is in the wireless network environment) when within communication range (refer to Col 7, Lines 42-60, where the nodes in the same coverage tree has a default connection, the connection is within the coverage area/range), a method for replicating data using a first monitor (monitoring party/subscriber M,

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Col 9, Lines 42-67) at the first communication node and a second monitor (monitored party/subscriber B, refer to Col 9, Lines 42-67, each nodes has monitoring functionalities) at the second communication node to determine when the first and second communication nodes are within communication range (refer to Col 8, Lines 1-5, 19-31), wherein at least one of the first and second nodes is mobile (N4, refer to Col 5, Lines 10-20); creating a dynamic connection between the first and second nodes while in communication range (coverage area) (refer to Col 7, Lines 42-60, where the nodes in the same coverage tree has a default connection, the connection is within the coverage area/range.);

data transfer between the first and second communication nodes (refer to Fig 5, N1 and N2 are connected to transfer and receive information, refer to Col 2, Lines 50-60) across the dynamic connection while the dynamic connection is activated (registered, refer to Col 2, Lines 20-36), wherein propagating a redundant copy of the data across the dynamic connection (refer to Col 7, Lines 64-67, Col 8, Lines 1-67, and Col 9, Lines 1-7.).

Kaye discloses the replicating data at the first and second communication nodes (propagate/passing setup information from one node to another, synchronized/replicating information, refer to Col 8, lines 1-33)

Kaye does not expressly indicate utilizing opportunistic transfer.

Serenji indicates utilizing opportunistic data transfer (transfer data once the connection has been established – refer to Col 5, Lines 15-25, Col 7, Lines 1-20, Lines 45-67 and Col 8, Lines 1-12).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to indicate utilizing the opportunistic data transfer.

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The suggestion/motivation for doing so would have been Serenji indicates that by providing the transfer, the receiving side is able to receive specific type or multiple unspecific types of data which will facilitate the transfer data in the fast manner.

2. Referring to Claim 2, Kaye discloses replicating includes comparing data stored locally at the first communication node (refer to Col 4, Lines 55-67) with data stored locally at the second communication node (refer to Col 4, Lines 55-67, Col 5, Lines 19-50, Col 6, Lines 20-67, and Col 7, Lines 1-10).

3. Referring to Claim 3, Kaye discloses if the data stored at the first communication node includes first information that is not stored at the second communication node, the act of replicating includes storing a copy of the first information at the second node (refer to Col 4, Lines 55-67, Col 5, Lines 19-50, Col 6, Lines 20-67, and Col 7, Lines 1-10).

4. Referring to Claim 4, Kaye discloses wherein the first information includes an instruction to delete information (remove, refer to Col 6, Lines 65-67, Col 7, Lines 1-10, 19-22).

5. Referring to Claim 5, Kaye discloses wherein the first information includes an instruction to modify information (when call set up, it is to modify information at that particular node, or updating information at the node, refer to Col 6, Lines 55-67 and Col 7, lines 1-10).

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6. Referring to Claim 6, Kaye discloses wherein the first communication node includes a first data transfer protocol component (refer to Col 1, Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocols to transmit data from one node to the other) and the second communication node includes a second data transfer protocol component (each nodes consists ability to transfer data, which inherently has data transfer protocol).

Kaye does not expressly indicate utilizing opportunistic transfer.

Serenji indicates utilizing opportunistic data transfer (transfer data once the connection has been established – refer to Col 5, Lines 15-25, Col 7, Lines 1-20, Lines 45-67 and Col 8, Lines 1-12).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to indicate utilizing the opportunistic data transfer.

The suggestion/motivation for doing so would have been Serenji indicates that by providing the transfer, the receiving side is able to receive specific type or multiple unspecific types of data which will facilitate the transfer data in the fast manner.

7. Referring to Claim 7, Kaye discloses wherein the first and second opportunistic data transfer components data transfer protocol components (refer to Col 1, Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocol to transmit data from one node to the other) perform the acting of using the first (monitoring party/subscriber M, Col 9, Lines 42-67) and second monitor (monitored party/subscriber B, refer to Col 9, Lines 42-67) and for creating the dynamic connection (refer to

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Col 7, Lines 42-60, where the nodes in the same coverage tree has a default connection, the connection is within the coverage area/range).

8. Referring to Claim 8, Kaye discloses a plurality of nodes (N1-N12, refer to Col 3, Lines 43-55), and each nodes consists a monitor (managers/switch center, each nodes consists a manager/monitor, which register and communicate with the system, infrastructure, refer to Col 4, Lines 33-40, and Col 2, Lines 52-60, and Col 3, Lines 55-61) which using the first (N1) and second monitors (N2) and a third monitor (N3), at a third communication node (coverage node/control node, refer to Col 8, Lines 1-5, Lines 41-67 and each node is a communication node, refer to Col 1, Lines 46-67) to determine when the first, second and third communication nodes are within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10), wherein the third communication nodes includes a third opportunistic data transfer protocol component (refer to Col 1, Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocols to transmit data from one node to the other), and wherein at least one of the first, second and third communication nodes is mobile (N4, refer to Col 5, Lines 10-20); and including the third communication node in the dynamic connection (refer to Col 7, Lines 64-67, Col 8, Lines 1-67, and Col 9, Lines 1-7.).

9. Referring to Claim 9, Kaye discloses wherein the act of replicating data includes replicating data among the first (N4), second (N7) and third communication nodes (N8) (refer to Col 5, Lines 32-39 and each node is a communication node, refer to Col 1, Lines 45-67).

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10. Referring to Claim 10, Kaye discloses wherein when at least one of the first (a subscriber/node), second and third communication nodes is no longer within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10, leave the group/coverage area), excluding the at least one communication node from the dynamic connection (refer to Col 6, Lines 65-67..Col 7, Lines 1-5 and each node is a communication node, refer to Col 1, Lines 45-67).

11. Referring to Claim 11, Kaye discloses wherein when the at least one communication node (subscriber A) is again within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10), including the at least one communication node in the dynamic connection and continuing to replicate data (joining request) with at least one communication node across the dynamic connection (refer to Col 6, Lines 11-30, Col 5, Lines 20-40 and each node is a communication node, refer to Col 1, Lines 45-67).

12. Referring to Claim 12, Kaye discloses wherein the dynamic connection is disconnected (refer to Col 7, Lines 33-42, when subscribers change to different node, they disconnect the connection with that node, so the leave/disconnect request is generated) and the first communication node (all nodes are communication node, refer to Col 1, Lines 40-67, N12, Fig 3, Col 5, Lines 32-40) is within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10), of a fourth communication node (N4, home node, Col 5, Lines 32-40) that includes a fourth opportunistic data transfer component and a fourth monitor (managers/switch center, each nodes consists a manager/monitor, which register and communicate with the system , infrastructure,

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refer to Col 4, Lines 33-40, and Col 2, Lines 52-60, and Col 3, Lines 55-61), performing the act of: : creating a second dynamic connection (new join request is the second dynamic connection is generated, at the new generated nodes) between the first and fourth communication nodes while the first and fourth communication nodes are within communication range; and replicating data (refer to Col 7, Lines 64-67, Col 8, Lines 1-67, and Col 9, Lines 1-7.) across the second dynamic connection.

13. Regarding to Claim 13, Kaye discloses wherein the fourth communication node (all nodes are communication nodes, refer to Col 1, Lines 40-67, N4, Fig 1) is an intended archival system that includes a storage device (Control Node, which collect/storage responses, refer to Col 8, Lines 19-35, also, each nodes consist of a SWC, which consists of a database that can store information, refer to Col 3, Lines 60-67, and Col 4, Lines 1-35.).

14. Referring to Claim 14, Kaye discloses wherein if the data stored at the first communication node (N4) includes information (address of the home node) that is not preserved at the first communication node (all nodes are communication nodes, refer to Col 1, Lines 40-67), the step for replicating includes storing an archival copy of the non-preserved information at the fourth communication node (N8, copy of the subscriber's detail, refer to Col 5, 30-40, and each node consists a copy of the group record, refer to Col 6, Lines 31-40), and wherein when the non-preserved information is stored at the fourth communication node, initiating instructions from the fourth communication node to the first communication node to deleted (de-register, refer to Col 5, Lines 40-50) the non-preserved information (updated information, refer to Col 7, Lines 5-10).

15. Referring to Claim 15, Kaye discloses wherein the fourth communication node is (all nodes are communication nodes, refer to Col 1, Lines 40-56 and N12, refer to Fig 1) mobile (MS1).

16. Referring to Claim 16, Kaye discloses wherein when the first (N12) and fourth communication nodes (all nodes are communication nodes, refer to Col 1, Lines 40-56 , and N4) are no longer within communication range, disconnecting the second dynamic connection (delete identity from the list, refer to Col 6, Lines 65-67, Col 7, Lines 1-30).

17. Referring to Claim 17, Kaye discloses wherein when the first communication node (all nodes are communication nodes, refer to Col 1, Lines 40-56 and N1, Fig 1) is within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10) with a fifth communication node (N7, Fig 1) that includes a fifth monitor (managers/switch center, each nodes consists a manager/monitor, which register and communicate with the system , infrastructure, refer to Col 4, Lines 33-40, and Col 2, Lines 52-60, and Col 3, Lines 55-61) and a fifth opportunistic data transfer protocol component (refer to Col 1, Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocols to transmit data from one node to the other), performing the act of: creating a third dynamic connection (refer to Fig 7, an Jn.Nfy connection/dynamic connection is being sent between the two nodes) between the first and fifth communication nodes while in communication range; and replicating data (refer to Col 7, Lines 64-67, Col 8, Lines 1-67, and

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Col 9, Lines 1-7.) across the third dynamic connection, including deleting any non-preserved information (refer to Col 7, Lines 19-22) at the fifth node.

18. Referring to Claim 18, Kaye discloses wherein the second (N4) and fifth communication nodes (control node, and all nodes are communication nodes, refer to Col 1, Lines 40-67) are the same communication node (refer to Col 8, Lines 41-67).

19. Referring to Claim 19, Kaye discloses a dynamically mobile data communication system for use in moving data and facilitating the arrival of data at an intended archival location (refer to Col 1, Lines 1-15, intended archival location is interpret as a service area in this reference), the system comprising: a plurality of communication nodes capable of employing wireless communication (refer to Fig 1, Mobile station is MS1, and plurality of communication nodes N1-N13), wherein at least one of the nodes is mobile, a storage device located at each of the nodes (each nodes consists a storage devices SWC, refer to Col 3, Lines 55-67, Col 4, Lines 15-35. Database is able to store information); and an opportunistic data transfer protocol component (a routing table refer to Col 4, Lines 15-25, consists a transfer information, and refer to Col 4, Lines 33-40 a transfer protocols which is consists in each nodes.) located at each of the nodes, wherein when two or more of the nodes are within communication range (refer to Fig 7, Nodes 1-4, and 7-12 are within the communication range, so between each node, there is a dynamic connection such as Jn.Nfy and Jn. Ack created between nodes), the component at each of the two or more nodes creates a dynamic connection for communication among the two or more nodes so long as the two or more nodes are within communication range.

20. Referring to Claim 21, Kaye discloses wherein at least one of the pluralities of communication nodes (N4) gathers data (Control Node, which collect/storage responses, refer to Col 8, Lines 19-35).

21. Referring to Claim 22, Kaye discloses wherein when the dynamic connection (Jn.Req. or Jn Ack. refer to Fig 7) is created between the two ore more communication nodes (communication nodes, refer to Col 1, Lines 41-67, N8 to N7, N8 to N11, refer to Fig 7), data is replicated (copy of subscriber's details, refer to Col 5, Lines 32-50) among the two or more communication nodes to provide a redundant copy of data at each of the two or more communication nodes.

22. Referring to Claim 23, Kaye discloses wherein the system is configured (consists of software to configured, refer to Col 4, Lines 1-15) to transmit data segments (Refer to Col 6, Lines 49-65 where N12 initiate a notification/message and pass to N9, and N9 pass to N8, N7, and N4, so to reach from N12 to N4, there are a few segments of data are passed from source to destination).

23. Referring to Claim 24, Kaye discloses wherein the intended archival system is configured to (Control Node, which collect/storage responses, refer to Col 8, Lines 19-35) propagates an instruction to delete (remove, refer to Col 7, Lines 1-10) one or more communication nodes (communication nodes, refer to Col 1, Lines 40-67 and N1- N13, refer to Fig 3) of the plurality to delete data from each of the one or more communication nodes (refer to Col 7, Lines 19-22).

24. Referring to Claim 25, Kayes discloses wherein the instructions to delete is propagated upon creating a subsequent dynamic connection between two or more communication nodes (communication nodes, refer to Col 1, Lines 40-67) of the plurality of nodes (refer to Fig 7, Nodes N1-4, and N7-12), wherein at least one of the two or more nodes includes the instruction to delete and is configured (modified, refer to Col 6, Lines 65-67 and Col 7, Lines 1-10) to issues the instruction (refer to Col 7, Lines 10-22) to delete to (remove, refer to Col 7, Lines 1-10) each of the two or more communication nodes of the subsequent dynamic connection (refer to Fig 7, dynamic connections are Jn.Nfy, and Jn.Ack).

25. Referring to Claim 29, Kaye discloses the computer program product comprising (refer to Col 4, Lines 10-15): a computer-readable medium (Switch Center, Refer to Col 3, Lines 55-60) carrying computer executable instructions (message, refer to Col 4, Lines 19-26) for performing, wherein the method comprises the steps for: determining whether a first communication node and a second communication node are within communication range (coverage range, as default/determined nodes in the coverage range, refer to Col 7, Lines 42-60), wherein if the first and second nodes are within communication range, performing the steps for: creating a dynamic network (Jn.Nfy and Jn.Ack between N7 and N4, refer to Fig 7) between the first and second communication nodes (refer to Col 1, Lines 40-67); determining whether the first and second communication nodes are privileged for data replication (when the nodes are within the coverage area, refer to Col 7, Lines 42-60); if the first and second communication nodes are determined to be privileged for data replication, performing an data transfer by performing the act of: comprising data stored at the first communication node (N4) with data stored at the second

communication node (N12); if the data stored at the first communication node includes information that is not stored at the second node, replicating the non-stored information for storage at the second node (Examiner interprets that when the subscriber modified its location information, migrating information, the registration information sent the copy to the second communication node, which the information is retained (replicate the copy on itself), because the second communication node does not contain the newest information, refer to Col 5, Lines 20-45); and if the second data includes second information not included in the first data, the storing the second information at the first communication node (Since all the nodes in the would contain the information of the group record, any changes, will be synchronized (copied of the information on the nodes), through out all the nodes, refer to Col 6, Lines 20-40, and Col 8, Lines 15-40); and

if the first and second communication nodes are not determined to be privileged for data exchange, disconnecting the dynamic network (leave a group, leave the coverage range, then leave request is generated, then the connection is disconnected when the information is removed from the local list, refer to Col 6, Col 65-67, Col 7, Lines 1-10).

Kaye does not expressly indicate utilizing opportunistic transfer.

Serenji indicates utilizing opportunistic data transfer (transfer data once the connection has been established – refer to Col 5, Lines 15-25, Col 7, Lines 1-20, Lines 45-67 and Col 8, Lines 1-12).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to indicate utilizing the opportunistic data transfer.

The suggestion/motivation for doing so would have been Serenji indicates that by providing the transfer, the receiving side is able to receive specific type or multiple unspecific types of data which will facilitate the transfer data in the fast manner.

26. Referring to Clams 30, Kaye discloses wherein the first information (registration request, refer to Col 5, Lines 50-67) and the second information (copy of subscriber's details, refer to Col 5, Lines 50-67) include one or more commands to modify data (refer to Col 5, Lines 20-40).

27. Referring to Clam 37, Kaye discloses wherein the first information (registration request, refer to Col 5, Lines 50-67) and the second information (copy of subscriber's details, refer to Col 5, Lines 50-67) include one or more commands to modify data (refer to Col 5, Lines 20-40 and Col 7, Lines 1-10), in the first information, the second information or combine thereof.

28. Referring to Claim 31, Kaye discloses wherein the commands to modify include one or more commands to delete data (refer to Col 7, Lines 19-22),

29. Referring to Claim 38, Kaye discloses wherein the commands to modify include one or more commands to delete data (refer to Col 7, Lines 19-22), in the first information, the second information or combination thereof

30. Referring to Claim 36, Kaye discloses where at least one of the nodes is mobile (N11, refer to Col 1), method for replicating data by employing opportunistic data transfer (refer to Col 1,

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Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocols to transmit data from one node to the other), the method comprising the acts of:

determining whether a first communication node and a second communication node are within communication range (coverage range, as default/determined nodes in the coverage range, refer to Col 7, Lines 42-60),

wherein the first includes a plurality of communication node is mobile (N11, refer to Col 1), and wherein if the first and second communication nodes are within communication range (coverage range, as default/determined nodes in the coverage range, refer to Col 7, Lines 42-60),

performing the acts of: creating a dynamic network between the first and second communication nodes (Jn.Nfy and Jn.Ack between N7 and N4, refer to Fig 7); determining whether the first and second communication nodes are privileged for data replication (Col 7, Lines 42-60, when the coverage are on roam, the dynamic coverage switch is off, and it is inherit that the nodes are not privileged for data replication);

if the first and second communication nodes are determined to be privileged for data replication (when the nodes are within the coverage area, refer to Col 7, Lines 42-60), performing the acts of:

comparing first data stored at the first communication node (N4) with data stored at the second communication node (N12); if the first data includes first communication node includes information that is not stored at the second communication node, replicating the non-stored information for storage at the second communication node (refer to Col 5, Lines 20-40) (when nodes communicate with each other, the new node/first communication node/coverage node,

which contained the newest update information, it then immediately pass the information/notification to all neighboring nodes/second nodes, or other nodes: then the nodes will be synchronized since the other nodes would not have the information, refer to Col 8, Lines 1-33)); and if the data stored at the second communication node includes information not included in the data stored at the first communication node, transferring the non- included information for storage at the first communication node (in this case, the second communication node is the coverage node, then it will send out the notification of the information changed to rest of the neighboring nodes, to be synchronized/copied the information, refer to Col 6, Lines 20-40 and Col 8, Lines 1-33);

and if the first and second communication nodes are not determined to be privileged for data exchange, disconnecting the dynamic network (leave a group, the leave request is generated, then the connection is disconnected when the information is removed from the local list, refer to Col 6, Col 65-67, Col 7, Lines 1-10).

II. Claims 26-28, 32-35, and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaye (US 5,694,393) in view of Serenyi et al hereinafter Serenyi (US 7007062) and in further view of Jackowski et al hereinafter Jackowski (US 6,141,686).

1. Referring to Claim 26, Kaye discloses the communication system configured (software implementation which indicate the system can be configured, refer to Col 4, Lines 1-20) for anticipate the traffic density, refer to Col 4, Lines 1-15 and data are transfer in the high capacity. Kaye also discloses the data is transferred to the desired location. (refer to Fig 7, N7 to N4)

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Kaye nor Serenyi indicate the traffic was high priority.

Jackowski discloses the system has capability to determine the traffic priority (abstract)

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Kaye, Serenyi and Jackowski's invention because Kaye discloses the system has the capability to anticipate the traffic density, thus, it would be more efficient if system to determine the priority base on the traffic density in able to avoid the traffic congestion.

2. Referring to Claim 28, Kaye indicate the communication network is in the mobile/cellular environment, refer to Col 1, Lines 55-67. It is well known in the art that in the cellular/wireless environment that the data communication is transfer in the real-time.

3. Referring to Claims 27, 35 and 41, Kaye discloses wherein the secure link includes one of a cellular link (Fig 1, mobile station, MS1, it is known that with mobile/cellular technology, the RLP Radio Link Protocol link is implemented within the OSI layer inherently), and a satellite link (Radio, refer to Col 3, Lines 55-62).

4. Referring to Claims 32 and 39, Kaye indicate the comparing data by examining whether or not the information in the node contains the registration information (refer to Col 6, Lines 20-40).

Kaye nor Serenyi indicate comparing data headers.

Jackowski indicate the to examine the data header (refer to Col 2, Lines 1-10)

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At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Kaye, Serenyi and Jackowski's invention because Kaye indicate the idea of comparing data. It would only be obvious to compare the header for data information.

5. Referring to Claim 33, Kaye indicate the comparing data by examining whether or not the information in the node contains the registration information (refer to Col 6, Lines 20-40).

Kaye nor Serenyi indicate comparing file directory information.

Jackowski indicate the use of IP address field, which is inherently consists the file directory information.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Kaye and Jackowski's invention because Kaye indicate the idea of comparing data. It would only be convenience to compare the file directory information if the information is coming from the Internet protocol.

6. Referring to Claims 34 and 40, Kaye discloses the communication system has capability to anticipate the traffic density, refer to Col 4, Lines 1-15 and data are transfer in the high capacity.

Kaye also discloses the data is transferred to the desired location. (refer to Fig 7, N7 to N4)

Kaye nor Serenyi expressly indicate the traffic was high priority.

Jackowski discloses the system has capability to determine the traffic priority (abstract). He also indicates using the TCP/IP (refer to Col 2, Lines 20-31) which is the secure link to transmit the data. It is well known in the art that TCP/IP has the error checking ability, which the TCP/IP would retransmit information if there is an error occur at the destination or during transmission.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Kaye, Serenyi and Jackowski's invention because Kaye discloses the system has the capability to anticipate the traffic density, thus, it would be more efficient if system to determine the priority base on the traffic density in able to avoid the traffic congestion.

Response to Arguments

Applicant argued that the motivation to combine the reference where in the present invention, the network communication system does not require reliable network connections, while, the cited reference Serenyi, on the either hand, might suggest the network to be reliable."

The argument is respectfully traversed, "In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "The network communication system does not require reliable network connection") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argued that Serenyi did not expressly indicate, "employing an opportunistic data transfer between the first and second communication nodes across the dynamic connection while the dynamic connection is activated." further, Applicant argued, "there is a significant difference between a connection and communication."

The argument is respectfully traversed. The nodes have to be within the communication range in order to communicate, further, the connection has to established in order for the data to transfer, and for data to transfer over the connection, is a form of communication. Applicant does not

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further define “dynamic connection” except stated that “creating a dynamic connection between the first and second communication nodes while in range;” Therefore, the meaning of dynamic range has to be giving to the broadest interpretation, meanwhile, Serenyi indicates “transmitting data..”, the connection has to be established and the nodes has to be in range in order to establish connection, therefore, satisfied the limitation.

Applicant argued Kaye do not teach or suggest the “monitor element”

The argument is respectfully traversed, if the nodes taught in Kaye do not comprise the monitor element, how would the system in Kaye is able to monitor each other (Col 9, Lines 50-67)?

Kaye’s node is the a representation of the subscriber at the node.

Conclusion

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

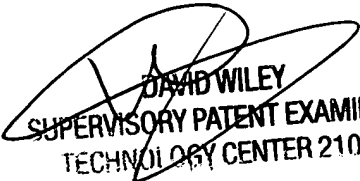
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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